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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ISABEL M. PENA,	:	
	:	
Plaintiff,	:	16-CV-427 (VEC)(BCM)
	:	
-against-	:	<u>ORDER ADOPTING REPORT &</u>
	:	<u>RECOMMENDATION</u>
	:	
BOARD OF ELECTIONS IN THE CITY OF	:	
NEW YORK,	:	
	:	
Defendant.	:	
	:	
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VALERIE CAPRONI, United States District Judge:

Pro se Plaintiff Isabel Pena commenced this action against her former employer, the City of New York's Board of Elections, alleging discrimination based on her race, color, national origin, and disability, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, and New York City Human Rights Law, N.Y.C. Admin. Code §§ 8-101 *et seq.* Plaintiff also alleges that her former employer unlawfully terminated her in retaliation for filing an employment discrimination complaint with the U.S. Equal Employment Opportunity Commission.

On January 29, 2016, this Court referred the action to Magistrate Judge Netburn, Dkt. 7, and on February 1, 2016, the action was reassigned to Magistrate Judge Moses. On July 6, 2016, Defendant moved to dismiss Plaintiff's Second Amended Complaint, arguing that Plaintiff failed to allege a *prima facie* case of discrimination, retaliation, or a hostile work environment because nothing alleged in the Second Amended Complaint gives rise to an inference of discrimination, retaliation, or a hostile work environment. Dkt. 27. Plaintiff opposed Defendant's motion. Dkt. 30. On February 6, 2017, Magistrate Judge Moses issued a Report and Recommendation

(“R&R”) recommending that Defendant’s motion be granted. Dkt. 34. The R&R notified Plaintiff that, pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), her deadline to file an objection to the R&R was fourteen days from February 6, 2017, the date the R&R was filed and served on Plaintiff. No objections have been filed.

DISCUSSION


In reviewing a report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b) (1)(C). When no objections are made to a magistrate judge’s report, a district court may adopt the report so long as “there is no clear error on the face of the record.” *Phillips v. Reed Grp., Ltd.*, 955 F. Supp. 2d 201, 211 (S.D.N.Y. 2013) (citation omitted). Failure to file timely objections to the report of the magistrate judge constitutes a waiver of those objections in the district court and on later appeal to the United States Court of Appeals. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Small v. Sec’y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (*per curiam*).

CONCLUSION

Upon careful review of the R&R, the Court finds no clear error and agrees with Magistrate Judge Moses’s recommendations. Accordingly, the R&R is adopted in full, and Defendant’s motion to dismiss Plaintiff’s Second Amended Complaint is GRANTED. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and permission to proceed *in forma pauperis* is denied. The Clerk of the Court is respectfully directed to close the open motion at docket entry 26, to terminate the case, to mail a copy of this order to Plaintiff, and to note mailing on the docket.

SO ORDERED.

Date: February 22, 2017
New York, NY

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VALERIE CAPRONI
United States District Judge